

REMARKS

The Office Action and have been reviewed and reconsideration of the above-identified application in view of the following amendments and remarks, is respectfully requested

Claims 1-18 are pending and stand rejected.

Claims 1, 4, 7, 10, 13 and 16 are independent claims.

Claims 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16 and 17 have been amended.

Claims 1-18 stand rejected under 35 USC 103(a) as being unpatentable over Salmonsens (USP no. 7, 209, 874) in view of Sato (USPPA 2003/0041123) further in view of Pak (USPPA 2004/0267790) and further in view of Silen (USPPA 2002/0116518).

In maintaining the rejection of the claims, the Office Action provides further comments in reply to the Applicant's remarks. More specifically, the Office Action states in response to the Applicant's argument that "Pak teaches that the quality of downloaded content is dependent upon factors regarding the characteristics of the rendering equipment in addition to the bandwidth factor... The Examiner notes that in the example cited in the Remarks regarding on -Applicant Specification page 7, lines 2-10, ('For example, the content requiring downloading and stored in the network server is the director annotation ...so that the network server may select automatically from the menu to download information in conformance with the current bandwidth to implement the seamless playback when receiving the current network connection bandwidth.') – the Applicant is indicating that if the detected current network connection bandwidth is greater than 2Mbps then the claimed invention is going to select a quality in conformance with 2Mbps. However, the quality menu does not present any matching options for a quality of 2Mbps. Given that the Applicant's claimed quality menu does not present any matching options for a quality of 2Mbps the Examiner respectfully requests clarification regarding how the network server may select automatically from the menu to download information in conformance with the current bandwidth. The Examiner notes that the Applicant's remarks

above are directed towards adjusting the download quality in conformance with the available bandwidth and are essentially re-hashing a previous argument shown below. Pak is not relied upon to disclose a monitoring function of the bandwidth, wherein the quality of the content available for downloading is adjusted based on the monitored bandwidth. Silen discloses a monitoring function of the bandwidth, wherein the quality of the content available for downloading is adjusted based on the monitored bandwidth. Silen discloses (re. Claim 1) detecting available bandwidth; (Silen-Paragraph 19-23) and downloading the requested content according to the bandwidth (Silen-Paragraphs 26-29)... *The combination of Pak-Silen disclosed a quality menu that **is independent of the rendering capabilities of the device** and wherein the quality menus include entries that refer to the bandwidth limitations of the network. (emphasis added).* The combination of Pak-Silen disclosed a quality menu including different rendering qualities (Pak-figure 7, different rendering options for each particular content requested by the user. The Examiner notes that the combination of resolution, display size and number of channels represent the equivalent of a rendering quality and the multiple rendering options are the equivalent to a quality menu) and selecting a rendering quality based on a detected bandwidth (Silen-para. 33 'query at regular intervals and determine if bandwidth is still acceptable and if the bandwidth is not acceptable, adjust the presentation accordingly')." (see OA, pages 3-6).

In addition, the Office Action further states "[t]he Applicant presents the following argument(s) ... With regard to the interpretation of quality being comparable to rendering options, applicant respectfully disagrees. Applicant submits that content of different qualities may have different rendering requirements but the quality, as recited in the claims is related to a bandwidth requirement and not rendering requirements (of the device)... The Examiner respectfully disagrees... The Examiner respectfully requests further clarification of these remarks. The Applicant [sic] remarks appear to imply that the 'quality' attribute, as recited in the claims, is independent of the rendering requirements and capabilities of the rendering device. Stated from another perspective, the

Applicant [sic] remarks appear to imply that the quality attribute, as recited in the claims is either 1) the quality of the recording /stored content or 2) the speed of the download and thus is not referring to the quality of the rendering on the device. Following this line of logic the quality of the recording /stored content and/or the speed of the download as a function of the bandwidth would have no impact on the quality of the rendering on the device and no impact on the viewing experience for the user. In response to the applicant's argument that the reference fail to show certain features of the applicant's invention, it is noted that the feature upon which applicant relies (i.e., wherein the quality is related to a bandwidth requirement and not rendering requirements (of the device) are not recited in the rejected claim(s). ... Pak para. 45 Figure 2 disclosed two streams with the same video resolution and same frame rate using the same compression system... but with much different bit rates (bandwidth) due to the choice of the compression parameters." (see OA, page 6-7).

The Office Action further states "[t]hus the subject matter claimed in the quality menu is independent of the rendering capabilities of the device and quality menus include entries that refer to the bandwidth limitations of the network. The Examiner ... disagrees... In response to applicant's argument that the references fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., quality menu is independent of the rendering capabilities of the device and quality menus include entries that refer to the bandwidth limitations of the network) are not recited in the rejected claims. (see OA page 7-8).

The Office Action further states "[t]he Applicant presents the following argument ... even if there were a monitoring function of the bandwidth, the quality of the content available for downloading cannot be adjusted based on the monitored bandwidth. The Examiner ... disagrees... Silen paragraph 27 thru 29 disclosed a downloading process that is adjusted based on the monitored bandwidth limitations of the network ... The combination of Pak-Silen disclosed a quality menu that is independent of the rendering capabilities of the device and

wherein the quality menus include entries that refer to the bandwidth limitations of the network. (see OA, page 7-8).

Applicant thanks the Examiner for his further comments regarding the rejection of the claims and his time in conducting an interview to discuss the rejection of the claims.

However, Applicant continues to respectfully disagree with and explicitly traverse the rejection of the claims.

Each of the independent claims explicitly recites the claim elements

“wherein the quality menu includes a *plurality of quality options associated with different bandwidth* related rendering qualities associated with the content available for downloading...

the quality selection being in conformance with the detected available bandwidth; ...

receiving the content available for downloading according to the selected quality associated with the detected bandwidth...”

Thus, the claims explicitly recite the element of the quality being based on the bandwidth and implicitly independent of the rendering capabilities (client environment).

However, in view of the Examiner’s comments that the applicant has argued a feature not recited in the claims, each of the independent claims has been amended to recite “the quality menu being independent of rendering requirements of a processing system.” No new matter has been added. Support for the amendment may be found at least page 7, lines 20-27, “[t]hrough the real-time detection of bandwidth by the player 20, the network server 60 can select, from the quality selecting menu of content requiring downloading, the quality for downloading information in conformance with the bandwidth according to the detected bandwidth, and send the content requiring downloading to the player with the selected quality. ***According to the present invention, the player may adjust the quality for downloading information in real-time according to the network connection condition to improve playing efficiency.***”

In addition, the claims have been further amended to recite the element of monitoring the bandwidth to select a quality from the quality menu for ***playing the content to be downloaded and the pre-stored content synchronously***. No new matter has been added. Support for the amendment may be found at least on page 7, lines 13-17; “The downloaded content outputted by the buffering device 25 and the OPTICAL DISK information read out by the reading device 21 are decoded by the decoding device 23 at the time that the player is working, then the outputting device 24 outputs the received OPTICAL DISK information and downloaded content synchronously.”

Pak teaches that download considers the rendering capability of the equipment and, thus, the files illustrated by Pak include information regarding the capabilities of the rendering equipment.

For example, Pak teaches that “information related to the hardware specification of the client includes information related to a display, an audio player, language codes and the like. The information related to the display includes resolution, physical size, etc. (see para. 0034). In addition, Pak teaches that [i]n operation the client request the contents service server to download predetermined contents and transmits the environment information stored in the client environment information storage to the contents service server. ***The environment information includes the information related to the hardware specification and the information related to the features of the network.*** (see para. 0040). In addition Pak teaches “[t]he contents service server selects a type of contents from a plurality of types of contents ... based on the environment information suitable for the environment of the client.” (see para. 0040).

Thus, Pak explicitly teaches that the selection of a download is based at least for being suitable for the client environment (i.e., the hardware specifications of the rendering equipment).

Hence, when the teachings of Pak are combined with the bandwidth monitoring features of Silen, the combination of Pak and Silen ***does not teach*** “a quality menu that is independent of the rendering capabilities of the

device” as is asserted by the Office Action. Pak explicitly teaches that the client environment is used in the selection process and any device that refers to Pak includes a quality menu that is dependent upon rendering capabilities. Otherwise, the device independent of the rendering capabilities is contrary to the teachings of Pak.

Hence, the device resulting from the combination of Pak and Silen would allow for downloading of predetermined content that satisfies the hardware specifications of the rendering equipment while the adaptive bandwidth feature of Silen may be used to insure that the download bandwidth is sufficient to satisfy the hardware capabilities of the rendering equipment.

Thus, as the Office Action states that Applicant’s arguments refer to features that are not claimed, Applicant has amended the claims to explicitly claim that the selection of a quality is independent of the processing system receiving the download.

In addition, none of the references provides any teaching regarding playing the content to be downloaded and the pre-stored content synchronously.

Applicant submits that for the remarks made, herein, the combination of the cited references fails to disclose or suggest the element of a quality menu including different rendering qualities and selecting a rendering quality based on a detected bandwidth, said quality options being independent of rendering capabilities of a system for playing the content. Nor does the combination of the references provide any teaching regarding monitoring the bandwidth to select a quality that provides for synchronous playing of the content to be downloaded and the pre-stored content.

Accordingly, the subject matter claimed is patently distinguishable over the cited references.

Applicant submits that the reasons for the objections and rejections of the claims have been overcome and withdrawal of same is respectfully requested. The issuance of a Notice of Allowance is expressly requested.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended the claims solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

In order to advance the prosecution of the matter, applicant respectfully requests that any errors in form that do not alter the substantive nature of the arguments presented herein be transmitted telephonically to the applicant's representative so that such errors may be quickly resolved or pursuant to MPEP 714.03 be entered into the record to avoid continued delay of the prosecution of this matter any further.

MPEP 714.03 affords the Examiner the discretion, pursuant to 37 CFR 1.135 (c), to enter into the record a bona fide attempt to advance the application that includes minor errors in form.

"[a]n Examiner may treat an amendment not fully responsive to a non-final Office Action by: (A) accepting the amendment as an adequate reply to the non-final Office action to avoid abandonment ... (B) notifying the applicant that the

reply must be completed... (C) setting a new time period for applicant to complete the reply ...

The treatment to be given to the amendment depends upon:

(A) whether the amendment is bona fide; (B) whether there is sufficient time for applicant's reply ... (C) the nature of the deficiency.

Where an amendment substantially responds to the rejections, objections or requirements in a non-final Office action (and is bona fide attempt to advance the application to final action) but contains a minor deficiency (e.g., fails to treat every rejection, objection or requirement), the examiner may simply act on the amendment and issue a new (non-final or final) Office action. The new Office action may simply reiterate the rejection, objection or requirement not addressed by the amendment (or otherwise indicate that such rejection, objection or requirement is no longer applicable).

This course of action would not be appropriate in instances in which an amendment contains a serious deficiency (e.g., the amendment is unsigned or does not appear to have been filed in reply to the non-final Office action)..."

However, if the Examiner believes that such minor errors in form cannot be entered into the record or that the disposition of any issues arising from this response may be best resolved by a telephone call, then the Examiner is invited to contact applicant's representative at the telephone number listed below to resolve such minor errors or issues.

Respectfully submitted,
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